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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,733	08/31/2001	Perry Genova	930006-2001	1342

20999 7590 02/10/2004  
FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

HONG, JOHN C

ART UNIT PAPER NUMBER

3726

DATE MAILED: 02/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/943,733

Applicant(s)

GENOVA ET AL.

Examiner

John C. Hong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 1,7-10,12,18 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 2-6,11,13,17,19-20,30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 24-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24, line 5, "the motion" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7-10, 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buncke (U.S. Patent 5,931,855).

Buncke disclose a method of cutting barbs on a suture, the method comprising:

Regarding Claim 1: providing a suture (84, 88); providing a cutting blade (80,92); creating a barb (98,86,94) on the suture by a motion of the blade which takes into account a cutting action by the blade on the suture in three dimensions along x-y-z axes of the suture caused by blade geometry in conjunction with blade motion ; and providing a means for moving the blade to cause the cutting action to create the barb.(Figs. 13-16); regarding the step of providing a securing means for securing the suture for cutting, Buncke discloses in col. 8, lines

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24-27, "the suture material is held stable during this operation" It is inherent that there should be a securing means to hold the suture material stable during the operation.

Regarding Claim 7, the blade geometry causes a cutting action on the suture along one axis with the motion of the blade causing cutting along the remaining two axes. (Fig 13);

Regarding Claims 8 and 12, the y-axis is a longitudinal axis of the suture, the x-axis is perpendicular to the longitudinal axis and z-axis is at 90 degree with respect to the x-axis (Fig. 13);

Regarding Claim 9, the blade geometry causes a cutting action along the z-axis with the blade motion causing a cutting action along x and y axes. (Fig. 15);

Regarding Claim 10, providing a plurality of blades each of which crates a respective barb on the suture (Fig 15);

Regarding Claim 18, an apparatus comprising a cutting bed on which a suture is maintained in place; means for causing a blade assembly to contact the suture in a predetermined manner; and the blade assembly comprising a plurality of cutting blades having a geometry, and means for moving the cutting blades in x and y axes of the suture at a plurality of locations with the movement of the blades and the blades' geometry, providing a plurality of barbs on the suture. (Fig. 15)

***Allowable Subject Matter***

5. Claims 2-6,11,13-17,19, 20 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. Claims 24- 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 22 and 23 are allowed.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

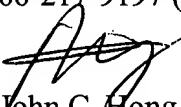
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 703-305-0779. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1784. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John C. Hong  
Primary Examiner  
Art Unit 3726

jh  
February 7, 2004